

HOUSE BILL NO. 110

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE HOLM

Introduced: 1/26/05

Referred: Labor and Commerce, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to 911 systems."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 * **Section 1.** AS 09.50.250 is amended to read:

4 **Sec. 09.50.250. Actionable claims against the state.** A person or corporation
5 having a contract, quasi-contract, or tort claim against the state may bring an action
6 against the state. A person who may present the claim under AS 44.77 may not bring
7 an action under this section except as set out in AS 44.77.040(c). A person who may
8 bring an action under AS 36.30.560 - 36.30.695 may not bring an action under this
9 section except as set out in AS 36.30.685. However, an action may not be brought if
10 the claim

11 (1) is an action for tort, and is based upon an act or omission of an
12 employee of the state, exercising due care, in the execution of a statute or regulation,
13 whether or not the statute or regulation is valid; or is an action for tort, and based upon
14 the exercise or performance or the failure to exercise or perform a discretionary
15 function or duty on the part of a state agency or an employee of the state, whether or

1 not the discretion involved is abused;

2 (2) is for damages caused by the imposition or establishment of a
3 quarantine by the state;

4 (3) arises out of assault, battery, false imprisonment, false arrest,
5 malicious prosecution, abuse of process, libel, slander, misrepresentation, deceit, or
6 interference with contract rights;

7 (4) arises out of the use of an ignition interlock device certified under
8 AS 33.05.020(c); [OR]

9 (5) arises out of injury, illness, or death of a seaman that occurs or
10 manifests itself during or in the course of, or arises out of, employment with the state;
11 AS 23.30 provides the exclusive remedy for such a claim, and no action may be
12 brought against the state, its vessels, or its employees under the Jones Act (46 U.S.C.
13 688), in admiralty, or under the general maritime law; or

14 **(6) is based on the exercise or performance of a duty in connection**
15 **with an enhanced 911 system, including providing, maintaining, or operating any**
16 **toll-free, statewide default public safety answering point, and is not based on an**
17 **intentional act or omission amounting to misconduct or on an act or omission**
18 **amounting to gross negligence.**

19 * **Sec. 2.** AS 09.65.070(d) is amended to read:

20 (d) An action for damages may not be brought against a municipality or any of
21 its agents, officers, or employees if the claim **is based on**

22 (1) [IS BASED ON] a failure of the municipality, or its agents,
23 officers, or employees, when the municipality is neither owner nor lessee of the
24 property involved, **to**

25 (A) [TO] inspect property for a violation of **a** [ANY] statute,
26 regulation, or ordinance, or a hazard to health or safety;

27 (B) [TO] discover a violation of **a** [ANY] statute, regulation, or
28 ordinance, or a hazard to health or safety if an inspection of property is made;
29 or

30 (C) [TO] abate a violation of **a** [ANY] statute, regulation, or
31 ordinance, or a hazard to health or safety discovered on property inspected;

1 (2) [IS BASED UPON] the exercise or performance or the failure to
 2 exercise or perform a discretionary function or duty by a municipality or its agents,
 3 officers, or employees, whether or not the discretion involved is abused;

4 (3) [IS BASED UPON] the grant, issuance, refusal, suspension, delay,
 5 or denial of a license, permit, appeal, approval, exception, variance, or other
 6 entitlement, or a rezoning;

7 (4) [IS BASED ON] the exercise or performance during the course of
 8 gratuitous extension of municipal services on an extraterritorial basis;

9 (5) [IS BASED UPON] the exercise or performance of a duty or
 10 function upon the request of, or by the terms of an agreement or contract with, the
 11 state to meet emergency public safety requirements; or

12 (6) [IS BASED ON] the exercise or performance of a duty in
 13 connection with an enhanced 911 [EMERGENCY] system and is not based on an
 14 intentional act of misconduct or on an act of gross negligence.

15 * **Sec. 3.** AS 29.35.131(c) is amended to read:

16 (c) A local exchange telephone company or wireless telephone company shall
 17 include the appropriate enhanced 911 surcharge, stated separately and included in the
 18 total amount owed, in the bills delivered to its customers. The Regulatory
 19 Commission of Alaska may not consider the enhanced 911 surcharge as revenue of the
 20 telephone company [AND HAS NO JURISDICTION OVER AN ENHANCED 911
 21 SYSTEM]. A customer is liable for payment of the enhanced 911 surcharge in the
 22 amounts billed by the telephone company until the amounts have been paid to the
 23 telephone company.

24 * **Sec. 4.** AS 29.35.131(d) is amended to read:

25 (d) A local exchange telephone company or wireless telephone company that
 26 has collected the enhanced 911 surcharge shall remit the amounts collected to the
 27 municipality **not** [NO] later than 60 days after the end of the month in which the
 28 amount was collected. From each remittance made in a timely manner under this
 29 subsection, the telephone company is entitled to deduct and retain the greater of one
 30 percent of the collected amount or \$150 as the cost of administration for collecting the
 31 enhanced 911 surcharge. In addition, a wireless telephone company is entitled to full

1 recovery of the recurring and nonrecurring costs associated with implementation and
2 operation of

3 **(1)** Phase I E911 service as allowed under Federal Communications
4 Commission proceedings entitled "Revision of the Commission's Rules to Ensure
5 Compatibility with Enhanced 9-1-1 Emergency Calling Systems" (CC Docket No. 94-
6 102; RM-8143); **and**

7 **(2) Phase II E911 service.**

8 * **Sec. 5.** AS 29.35.131 is amended by adding a new subsection to read:

9 (i) To enable each municipality to qualify for grant funding, the governor is
10 responsible for certifying the collection and use of all 911 surcharges.

11 * **Sec. 6.** AS 29.35.133(a) is amended to read:

12 (a) The establishment, funding, use, operation, or maintenance of enhanced
13 911 systems and all activities associated with those actions are specifically found to be
14 within the ambit of **AS 09.50.250(6)** [AS 09.50.250(1)] and AS 09.65.070(d)(6).
15 Except for intentional acts of misconduct or gross negligence, a service supplier, local
16 exchange telephone company, or wireless telephone company and their employees and
17 agents are also immune from tort liability that might otherwise be incurred in the
18 course of installing, training, maintaining, or providing enhanced 911 systems or
19 transmitting or receiving calls on the system.

20 * **Sec. 7.** AS 29.35 is amended by adding a new section to read:

21 **Sec. 29.35.134. Multi-line telecommunications systems.** A municipality
22 may by ordinance elect to require an enhanced 911 system from a multi-line
23 telecommunications system. A multi-line telecommunications system operator must
24 arrange to update the automatic location identification database with an appropriate
25 master street address guide valid address and callback number for each multi-line
26 telecommunications system telephone, so that the location information specifies the
27 emergency response location of the caller. A multi-line telecommunications system
28 operator is considered to be in compliance with this section when the multi-line
29 telecommunications system complies with E911 generally accepted industry standards
30 as defined by the Regulatory Commission of Alaska. For purposes of this section,

31 (1) "call back number" means a number used by the public safety

1 answering point to re-contact the location from which a 911 call is placed; the number
2 may or may not be the number of the station used to originate the 911 call;

3 (2) "emergency response location" means the location to which a 911
4 emergency response team may be dispatched that is specific enough to provide a
5 reasonable opportunity for the emergency response team to quickly locate a caller
6 anywhere within it;

7 (3) "master street address guide" means a database of formatted street
8 names, numerical addresses or address ranges, and other parameters defining valid
9 locations and emergency services zones, and their associated emergency services
10 numbers, that enables the proper routing and response to 911 calls;

11 (4) "multi-line telecommunications system" means a system made up
12 of common control units, telephone sets, and control hardware and software, including
13 network and premises based systems such as Centrex and PBX, Hybrid, and Key
14 Telephone Systems, as classified by the Federal Communications Commission under
15 Part 68 Requirements, and including systems owned or leased by governmental
16 agencies or nonprofit entities, as well as for profit entities;

17 (5) "multi-line telecommunications system operator" means an entity
18 that owns, leases, or rents from a third party, and operates a multi-line telephone
19 system through which a caller may place a 911 call through a public switched
20 network.

21 * **Sec. 8.** AS 42.05 is amended by adding a new section to read:

22 **Sec. 42.05.295. Routing 911 calls.** Notwithstanding AS 42.05.711, to ensure
23 statewide access by all residents to 911 wireline services, traditional or enhanced, each
24 local exchange telephone company that provides wireline service to an area outside a
25 municipality must route all 911 calls originating from within its customer service base
26 to a public safety answering point. In this section, "municipality" has the meaning
27 given in AS 29.35.137.